Motion to Dismiss

Case No. N25-1754
Service Void Ab Initio - No Personal Jurisdiction
Two Disjunctive Grounds to Void Service
Due Process Requires a Dismissal
CCP § 527.6(w)(1); CCP § 414.10
California Capital Ins. Co. v. Hoehn (2024) 17 Cal.5th 207
R.D. v. P.M. (2011) 202 Cal.App.4th 181

Case History: Retaliation

- May 23, 2023: Officer N. Remick (Richmond PD): Lucianna's false 911 call was "retaliation"
- May 03, 2024: Officer M. Meador (Richmond PD) advised Respondent to file CHRO (May 2024) to establish 'probable cause to arrest'
- N24-0881 (vs. Nick Datta – Lucianna's brother)
- N24-0884 (vs. Steve Moran – Lucianna's partner)
- Aug 10, 2025: Notice to Lucianna of Intent to Litigate
- Aug 10, 2025: False 911 Call
- Aug 10, 2025: Notice to Richmond PD (Witness intimidation)
- September 4, 2025: N25-1754 (Lucianna Datta as Petitioner)

Void Service: 2 Grounds

- Disjunctive grounds - either ground requires dismissal
- Point 1 - Lack of Personal Service
- CCP § 527.6(w)(1);
- Bein v. Brechtel (1994)
- Point 2 - Service by a Confederate
- CCP § 414.10
- Gerbosi v. Dick’s Sporting Goods, Inc. (2021)

Void Service: CCP §527.6

- Lack of personal service
- CCP § 527.6(w)(1) - as provided in CCP § 415.10
- Personal service requires hand-to-hand delivery
- Bein v. Brechtel (1994) 23 Cal.App.4th 789
- "Doorstep service is invalid."

Void Service: Confederate

- Service by confederate
- CCP § 414.10 - requires a neutral server
- Prohibits service by “any person interested in the action”
- Gerbosi v. Dick’s Sporting Goods, Inc. (2021) 72 Cal.App.5th 354
- Service by petitioner’s agent = void
- Void service by confederate implies conspiracy (PC § 182)
- People v. Prevost (1998) 60 Cal.App.4th 1382: “a confederate is a co-conspirator”

Void Service is Final

- Jurisdictional defect (void service) cannot be cured
- CCP § 527.6: No mechanism to cure invalid service
- CCP § 473(d): “The court shall, whenever an application is made therefor, set aside any judgment or order void on its face.”
- California Capital Ins. Co. v. Hoehn (2024) 17 Cal.5th 207
- California Supreme Court (2024): No cure for void service
- “Service that violates statutory requirements is void ab initio—not merely voidable. There is no mechanism to ‘cure’ it through later notice, waiver, or substantial compliance.”

Three Requests for Relief

- Ch-120 filed to request sanctions and spoliation
- 1. Dismissal - Required by due process (R.D. v. P.M.)
- 2. Sanctions - abuse of process (CCP §§ 128.7, 527.6(r))
- 3. Spoliation Order - to preserve evidence of consciousness of guilt (CACI 204)
- In re Marriage of Hinman* (1992) 6 Cal.App.4th 711
- “Jurisdictional defects may be raised at any time.”

Motion to Dismiss

- Jurisdictional Consequence: Due process requires a dismissal
- CCP § 527.6(w)(1); CCP § 415.10; CCP § 414.10; CCP § 473(d)
- R.D. v. P.M. (2011) 202 Cal.App.4th 181
- “No Service = No Jurisdiction = Void”
- “Without valid service, the court lacks jurisdiction to issue the restraining order… The order is void.”
- Void service by confederate implies conspiracy (PC § 182)
- People v. Prevost (1998) 60 Cal.App.4th 1382: “a confederate is a co-conspirator”

Sanctions - Exhibit E

- Bad-faith, retaliatory filing + void service
- Two grounds for void service = abuse of process = sanctions warranted
- CCP § 128.7 and § 527.6(r)
- May 2023: Officer Remick (Richmond PD) - Lucianna Datta's false 911 call was "retaliation"
- August 2025: Officer Rajan Lal (Richmond PD) - notice to DA to investigate PC § 136.1
- Gonzalez v. Munoz (2007) 156 Cal.App.4th 413
- Petitioner "was the aggressor"

Sanctions - Exhibit E

- Pre-service surveillance confirms retaliatory intent for witness intimidation (PC § 136.1)
- Reporting criminal trespass (PC § 602)
- Reporting false impersonation (PC § 529)
- Waiting for Officer Tom Tran (Richmond PD)
- Void Service: witness intimidation, conspiracy

Spoliation Order - Exhibit G

- Order parties to preserve video/audio from May 1, 2023 - present
- Requested to preserve self-incriminating videos
- Cedars-Sinai Medical Center v. Superior Court (1998) 18 Cal.4th 1
- Courts have inherent power to sanction spoliation
- Destruction demonstrates consciousness of guilt (CACI 204)
- Williams v. Russ (2008) 167 Cal.App.4th 1215
- “A party’s destruction of evidence . . . strikes at the heart of the judicial process.”

Requests for Relief

- Request for Dismissal - void service - no jurisdiction
- Request for Sanctions - abuse of process
- Request for Spoliation Order - consciousness of guilt
- Notice of Intent to file CH-100 against 6 individuals
- Notice of Intent to send filings to DA for investigation
- Void Service (witness intimidation, retaliatory conspiracy)
- Void POS (perjury)